

HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b))

Description of the case.

W.P. No. 1260 (S/S) year 2003

Chandi Prasad Raturi

Versus

Registrar Co-operative Societies
Vidhan Sabha Marg, Lucknow and others.

Approved for reporting.

~~Not approved for reporting~~

Date of decision. 21.10.2003

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1260 of 2003 (S/S)

Chandi Prasad Raturi,
S/o Shri Girdhari Lal Raturi
At present posted at U.P. Co-
Operative Federation Ltd,
Soyabean and Vanaspati,
Halduchaur, Haldwani,
District Nainital.

....Petitioner

Vs.

Registrar, Co-operative Societies,
Vidhan Sabha Marg, Lucknow and
Others

....Respondents

Rakesh Thapliyal (Adv.) Counsel for the petitioner.

Dated: 21-10-2003

Hon'ble Rajesh Tandon, J.

Heard Shri Rakesh Thapliyal counsel for the petitioner and standing counsel for the respondent no. 1. Mrs. Bina Pandey.

By the present writ petition the petitioner has prayed for a writ order or direction the nature of certiorari quashing the order dated 23-6-2003 passed by the respondent no.2 by which the petitioner has not been given higher pay scale.

Brief facts giving rise to the present writ petition are by virtue of the powers conferred in U.P. Co-operative Societies Employees Services Regulation, 1975, the petitioner was appointed on 21-7-1984 on the post of Store Keeper in the pay scale of 515.850. The Registrar of the Cooperative Societies has sanctioned various posts.

The post of Store Keeper was the feeding cadre for the grant of promotion on the post of Store officer as per notification made by the virtue of the powers confirmed under Section 252(11) of the U.P. Co-operative Societies Services 1975. The details of the promotional posts are given below: -

				स्टोर अनुभाग
1. स्टोर आफिसर	1	850.1720	21से 35	वाणिज्य स्नातकोत्तर या एम0ए0 स्टेटिक्स या गणित या मैकेनिकल या इलैक्ट्रिकल इंजीनियरिंग में डिग्री या डिप्लोमा। समान पद पर कार्य करने को 5 वर्ष का अनुभव।
2. स्टोर कीपर	1	515—860	21से 35	डिग्री या डिप्लोमा मैकेनिल / इलैक्ट्रिकल इंजीनियरिंग में। किसी प्रतिष्ठित संस्थान में स्टोर कीपर के कार्य

				का 2 वर्ष का अनुभव ।
3. गोदाम कीपर	2	470—735	21से 30	बी०एस०सी०/ वाणिज्य स्नातक। समान पद पर कार्य करने का 3 वर्ष क अनुभव।
4. स्टोर सहायक	1	354—550		वाणिज्य स्नातक।
5. <u>टंकक—क्लर्क</u>	1	354—550	21से 30	स्नातक, हिन्दी व अग्रजी में टंकण गति 40 से 60 होनी चाहिये।

On 9th April 2002 General Manager (Administration) has passed an order giving the increment as well as promotional pay scale to the petitioner as well as their employees. The details of the increment as well as promotional post was given as under:-

Category No. 1 – First increment was to be given on completion of 8 years of services and the promotional pay scale was to be given on 14 years of completing the services.

Category No. 2—Again increment was provided after completing 19 years of service. In order to get IInd promotional pay scale 24 years of service is required. The government order dated 9-4-2002 is quoted below:-

प्रबन्ध समिति की बैठक दिनांक 12.11.2001 के प्रस्ताव सं० 9 के अनतर्गत लिये गये निर्णय के क्रम में कार्यालय आदेशांक पी०सी०एफ०/स्था०/अ-1-1769 दिनांक 29.11.2001 के द्वारा पी०एस०एफ० के अधिकारियों/कर्मचारियों को शासनादेश के अनुसार 8 वर्ष सन्तोषजनक सेवा पर एक वेतन वृद्धि, 14 वर्ष की सेवा पर प्रोन्नत वेतनमान, 19वर्ष की सेवा

पर पुनः एक वेतन वृद्धि तथा 24वर्ष की सेवा पर द्वितीय प्रोन्नत वेतनमान की व्यवस्था है।

The petitioner was given the first increment, which was due on 9-4-2002 on completing the service of 8 years, further the promotional pay scale became due to the petitioner on 23-6-2003 on higher pay scale on completing 14 years of service.

The grievance of the petitioner is that the petitioner was given the first increment as well as the promotional pay scale but the pay scale, which he was entitled, was the extent of 8000-13500 which is due for the 1st promotional scale of Store Officer. The same has not been given to the petitioner, hence the present writ petition has been filed.

It may be pointed out that in the earlier writ petition the Petitioner has claimed the post of Store Keeper and the said writ petition was rejected on 7-1-2003 with the following order:-

“According to the submission of the petitioner since the writ was in respect of the promotion of the post of Store Officer of the same has become infructuous on the ground that the post is not available at the relevant time.”

The petitioner has further submitted that he is entitled for the higher pay scale on the basis of the government order dated 9.4.2002 which permits that on completing 14 years of service the petitioner will be entitled for the promotional scale of pay on the higher pay scale.

According to the petitioner higher pay scale has been given to the other employees after completion of 14 years of service. The relevant averments to this effect are contained in paragraphs 17,18 and 19 of the writ petition. The same are quoted below: -

Paragraph 17-“That the another instance pertains to one Shri Bipra Singh who was initially appointed as Shift Lab Incharge and after

completion of 14 years of service, he was given the promotional pay scale of 8000-13500 which pertains to the post of Shift Lab Incharge. At this point of time it is relevant to mention here that the order dated 19-7-86 clearly provides that the next promotional post of Shift Lab Incharge is Lab Incharge and therefore after completion of 14 years service, the said incumbent was given the scale of Lab Incharge. A letter to this averment dated 15-5-2002 is being filed herewith and marked as Annexure No. 9 to this writ petition.”

Paragraph 18-“That similar benefit pertaining to one Shri Gopal Krishna Tewari who was initially appointed as Shift Lab I/C and after completion of 14 years service, he was given the promotional pay scale of 8000-13500 which is prescribed for the post of Lab I/C. A copy of the said letter dated 13-9-2002 is being filed herewith and marked as Annexure No.10 to this writ petition.”

Paragraph 19-“That admittedly w.e.f. 21-07-1998, the petitioner is entitled to get the benefit of promotional pay scale after 14 years of service, which is prescribed, for the post of Store Office and as referred in the preceding paragraphs, it is relevant to mention here that w.e.f. 1996 the scale of Store Officer was revised to 8000-13500 and therefore w.e.f. 21-7-1998, the petitioner is entitled to get the pay scale of 8000-13500 as promotional pay scale in pursuance of the order dated 09-04-2002.

According to the G.O. dated 9th April 2002 all those employees who have completed 14 years of service were given promotional pay scale of 8000-13500 but the same has not been extended in favour of the petitioner and as such the petitioner has submitted that he is entitled for the benefit of the government order dated 9 April 2002 after completing the service of 14 years.

On 4-7-2003 the petitioner has already represented to the Managing Director bringing on record that he is entitled for the scale of 8000-13500 of completion of 14 years of service.

In view of the G.O. dated 9 April 2002 the benefit of pay scale has been given to all the employees. Since the petitioner has already preferred a representation, and no decision has been taken place by the respondent no. 2, the same shall be decided by the authorities taking into consideration the G.O. dated 9th April 2002.

It appears that the order Annexure 4 has been passed on 23-6-2003 without considering the govt. order 9th April 2002. The petitioner has completed 14 years of service but the benefits of higher pay scale has not been taken into consideration for which the petitioner has claimed.

The respondents are directed therefore to consider the revised pay scale (higher pay scale) available to the promotional posts for which the petitioner has been given the benefit on completing 14 years of service permanent to the G.O. dated 9-4-2002.

The respondent shall consider afresh as to whether the petitioner is entitled for the higher pay scale in pursuance of the G.O dated 9th April 2002 and after considering the same afresh and after hearing the petitioner in accordance with law respondents are directed to pass a reasoned order. The respondent shall pass the order within one month of receipt of certified copy of this order.

With the aforesaid observations writ petition is disposed of.

(Rajesh Tandon, J.)

Dated: -21-10-2003

Mohit

WPSS No. 1260 of 2003

Hon'ble Rajesh Tandon, J.

Application by Sri Rakesh Thapliyal for correction of judgment as prayed are typing mistakes.

The application is allowed.

Let the judgment be corrected today.

(BOC)